

AMENDED IN ASSEMBLY APRIL 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 449**

**Introduced by Assembly Member Vargas**

February 14, 2003

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~~An act to amend Sections 22352 and 40802 of the Vehicle Code, An act to amend Sections 22402, 22403, 22404, and 22405 of the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 449, as amended, Vargas. Vehicles: speed limits.

*Under existing law, the Department of Transportation may determine the maximum speed, not less than 5 miles per hour, which can be maintained with safety to any bridge, elevated structure, tube, or tunnel on a state highway, and a local authority may make that determination with reference to structures in its jurisdiction. Existing law also authorizes the department to make that same determination with reference to any other highway upon receiving a request from a local authority having jurisdiction over the bridge, elevated structure, tube, or tunnel.*

*This bill would make the determination of the department mandatory with reference to a state highway. The bill would also apply those provisions to a bridge approach and make conforming changes in existing law.*

*Existing law makes it a crime to drive a vehicle on any bridge, elevated structure, tube, or tunnel constituting a part of a highway, at a speed which is greater than the maximum that can be maintained with safety to the structure. By expanding the definition of this violation to*

include a bridge approach, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law sets the prima facie speed limits at 15 miles per hour under certain conditions, and at 25 miles per hour under other, specified conditions. The prima facie speed limits apply unless changed as authorized in the Vehicle Code and, if so changed, only when signs have been erected giving notice thereof. Existing law specifies that this provision is operative on March 1, 2001.~~

~~This bill would delete the obsolete operative date and would make conforming changes in existing law.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 22352 of the Vehicle Code is amended~~
- 2 *SECTION 1. Section 22402 of the Vehicle Code is amended to*
- 3 *read:*
- 4 22402. The Department of Transportation ~~may~~ *shall*, in the
- 5 manner provided in Section 22404 determine the maximum speed,
- 6 not less than five miles per hour, which can be maintained with
- 7 safety to ~~any bridge all bridges, bridge approaches, elevated~~
- 8 ~~structure structures, tube tubes, or tunnel and tunnels~~ on a state
- 9 highway. ~~Said~~ *The* department may ~~also~~ make a determination
- 10 with reference to any other highway upon receiving a request
- 11 therefor from the board of supervisors or road commissioner of the
- 12 county, the governing body of the local authority having
- 13 jurisdiction over the bridge, *bridge approach*, elevated structure,
- 14 tube, or tunnel.
- 15 *SEC. 2. Section 22403 of the Vehicle Code is amended to read:*
- 16 22403. ~~Any~~ A local authority may, in the manner provided in
- 17 Section 22404, determine the maximum speed, not less than five
- 18 miles per hour, which can be maintained with safety to ~~any a~~
- 19 bridge, *bridge approach*, elevated structure, tube, or tunnel under

its jurisdiction, or may request the Department of Transportation to make ~~such~~ *that* determination.

*SEC. 3. Section 22404 of the Vehicle Code is amended to read:*

22404. The Department of Transportation or local authority making a determination of the maximum safe speed upon a bridge, *bridge approach*, elevated structure, tube, or tunnel shall first make an engineering investigation and shall hold a public hearing.

Notice of the time and place of the public hearing shall be posted upon the bridge, *bridge approach*, elevated structure, tube, or tunnel at least five days before the date fixed for the hearing. Upon the basis of the investigation and all evidence presented at the hearing, the department or local authority shall determine by order in writing the maximum speed which can be maintained with safety to the bridge, *bridge approach*, elevated structure, tube or tunnel. ~~Thereupon, the~~ *The* authority having jurisdiction over the bridge, *bridge approach*, elevated structure, tube, or tunnel shall erect and maintain suitable signs specifying the maximum speed so determined at a distance of not more than 500 feet from each end of the bridge, *bridge approach*, elevated structure, tube, or tunnel; ~~or any approach thereto.~~

*SEC. 4. Section 22405 of the Vehicle Code is amended to read:*

22405. (a) No person ~~shall~~ *may* drive a vehicle on ~~any~~ *a* bridge, *bridge approach*, elevated structure, tube, or tunnel constituting a part of a highway, at a speed which is greater than the maximum speed ~~which~~ *that* can be maintained with safety to ~~such~~ *the* structure.

(b) Upon the trial of ~~any~~ *a* person charged with a violation of this section with respect to a sign erected under Section 22404, proof of the determination of the maximum speed by the Department of Transportation or local authority and the erection and maintenance of the speed signs shall constitute prima facie evidence of the maximum speed which can be maintained with safety to the bridge, *bridge approach*, elevated structure, tube, or tunnel.

*SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of*

1 *the Government Code, or changes the definition of a crime within*  
2 *the meaning of Section 6 of Article XIII B of the California*  
3 *Constitution.*

4 ~~to read:~~

5 ~~22352. The prima facie limits are as follows and shall be~~  
6 ~~applicable unless changed as authorized in this code and, if so~~  
7 ~~changed, only when signs have been erected giving notice thereof:~~

8 ~~(a) Fifteen miles per hour:~~

9 ~~(1) When traversing a railway grade crossing, if during the last~~  
10 ~~100 feet of the approach to the crossing the driver does not have~~  
11 ~~a clear and unobstructed view of the crossing and of any traffic on~~  
12 ~~the railway for a distance of 400 feet in both directions along the~~  
13 ~~railway. This subdivision does not apply in the case of any railway~~  
14 ~~grade crossing where a human flagman is on duty or a clearly~~  
15 ~~visible electrical or mechanical railway crossing signal device is~~  
16 ~~installed but does not then indicate the immediate approach of a~~  
17 ~~railway train or car.~~

18 ~~(2) When traversing any intersection of highways if during the~~  
19 ~~last 100 feet of the driver's approach to the intersection the driver~~  
20 ~~does not have a clear and unobstructed view of the intersection and~~  
21 ~~of any traffic upon all of the highways entering the intersection for~~  
22 ~~a distance of 100 feet along all those highways, except at an~~  
23 ~~intersection protected by stop signs or yield right of way signs or~~  
24 ~~controlled by official traffic control signals.~~

25 ~~(3) On any alley:~~

26 ~~(b) Twenty-five miles per hour:~~

27 ~~(1) On any highway other than a state highway, in any business~~  
28 ~~or residence district unless a different speed is determined by local~~  
29 ~~authority under procedures set forth in this code.~~

30 ~~(2) When approaching or passing a school building or the~~  
31 ~~grounds thereof, contiguous to a highway and posted with a~~  
32 ~~standard "SCHOOL" warning sign, while children are going to or~~  
33 ~~leaving the school either during school hours or during the noon~~  
34 ~~recess period. The prima facie limit shall also apply when~~  
35 ~~approaching or passing any school grounds which are not~~  
36 ~~separated from the highway by a fence, gate, or other physical~~  
37 ~~barrier while the grounds are in use by children and the highway~~  
38 ~~is posted with a standard "SCHOOL" warning sign. For purposes~~  
39 ~~of this subparagraph, standard "SCHOOL" warning signs may be~~  
40 ~~placed at any distance up to 500 feet away from school grounds.~~

~~(3) When passing a senior center or other facility primarily used by senior citizens, contiguous to a street other than a state highway and posted with a standard “SENIOR” warning sign. A local authority is not required to erect any sign pursuant to this paragraph until donations from private sources covering those costs are received and the local agency makes a determination that the proposed signing should be implemented. A local authority may, however, utilize any other funds available to it to pay for the erection of those signs.~~

~~SEC. 2. Section 40802 of the Vehicle Code is amended to read:~~

~~40802. (a) A “speed trap” is either of the following:~~

~~(1) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.~~

~~(2) A particular section of a highway with a prima facie speed limit that is provided by this code or by local ordinance under paragraph (1) of subdivision (b) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects. This paragraph does not apply to a local street, road, or school zone.~~

~~(b) (1) For purposes of this section, a local street or road is defined by the latest functional usage and federal aid system maps submitted to the federal Highway Administration, except that when these maps have not been submitted, or when the street or road is not shown on the maps, a “local street or road” means a street or road that primarily provides access to abutting residential property and meets the following three conditions:~~

~~(A) Roadway width of not more than 40 feet.~~

~~(B) Not more than one half of a mile of uninterrupted length. Interruptions shall include official traffic control signals as defined in Section 445.~~

~~(C) Not more than one traffic lane in each direction.~~

~~(2) For purposes of this section “school zone” means that area approaching or passing a school building or the grounds thereof~~

1 that is contiguous to a highway and on which is posted a standard  
2 “SCHOOL” warning sign, while children are going to or leaving  
3 the school either during school hours or during the noon recess  
4 period. “School zone” also includes the area approaching or  
5 passing any school grounds that are not separated from the  
6 highway by a fence, gate, or other physical barrier while the  
7 grounds are in use by children if that highway is posted with a  
8 standard “SCHOOL” warning sign.

9 (c) (1) When all of the following criteria are met, paragraph  
10 (2) of this subdivision shall be applicable and subdivision (a) shall  
11 not be applicable:

12 (A) When radar is used, the arresting officer has successfully  
13 completed a radar operator course of not less than 24 hours on the  
14 use of police traffic radar, and the course was approved and  
15 certified by the Commission on Peace Officer Standards and  
16 Training.

17 (B) When laser or any other electronic device is used to  
18 measure the speed of moving objects, the arresting officer has  
19 successfully completed the training required in subparagraph (A)  
20 and an additional training course of not less than two hours  
21 approved and certified by the Commission on Peace Officer  
22 Standards and Training.

23 (C) (i) The prosecution proved that the arresting officer  
24 complied with subparagraphs (A) and (B) and that an engineering  
25 and traffic survey has been conducted in accordance with  
26 subparagraph (B) of paragraph (2). The prosecution proved that,  
27 prior to the officer issuing the notice to appear, the arresting officer  
28 established that the radar, laser, or other electronic device  
29 conformed to the requirements of subparagraph (D).

30 (ii) The prosecution proved the speed of the accused was unsafe  
31 for the conditions present at the time of alleged violation unless the  
32 citation was for a violation of Section 22349, 22356, or 22406.

33 (D) The radar, laser, or other electronic device used to measure  
34 the speed of the accused meets or exceeds the minimal operational  
35 standards of the National Traffic Highway Safety Administration,  
36 and has been calibrated within the three years prior to the date of  
37 the alleged violation by an independent certified laser or radar  
38 repair and testing or calibration facility.

39 (2) A “speed trap” is either of the following:

1     ~~(A) A particular section of a highway measured as to distance~~  
2     ~~and with boundaries marked, designated, or otherwise determined~~  
3     ~~in order that the speed of a vehicle may be calculated by securing~~  
4     ~~the time it takes the vehicle to travel the known distance.~~

5     ~~(B) (i) A particular section of a highway or state highway with~~  
6     ~~a prima facie speed limit that is provided by this code or by local~~  
7     ~~ordinance under paragraph (1) of subdivision (b) of Section~~  
8     ~~22352, or established under Section 22354, 22357, 22358, or~~  
9     ~~22358.3, if that prima facie speed limit is not justified by an~~  
10    ~~engineering and traffic survey conducted within one of the~~  
11    ~~following time periods, prior to the date of the alleged violation,~~  
12    ~~and enforcement of the speed limit involves the use of radar or any~~  
13    ~~other electronic device that measures the speed of moving objects:~~

14    ~~(I) Except as specified in subelause (II), seven years.~~

15    ~~(II) If an engineering and traffic survey was conducted more~~  
16    ~~than seven years prior to the date of the alleged violation, and a~~  
17    ~~registered engineer evaluates the section of the highway and~~  
18    ~~determines that no significant changes in roadway or traffic~~  
19    ~~conditions have occurred, including, but not limited to, changes in~~  
20    ~~adjoining property or land use, roadway width, or traffic volume,~~  
21    ~~10 years.~~

22    ~~(ii) This subparagraph does not apply to a local street, road, or~~  
23    ~~school zone.~~